

**REGULAR COUNCIL MEETING
CITY OF WATERTOWN
March 4, 2002
7:00 P.M.**

MAYOR JOSEPH M. BUTLER PRESIDING

PRESENT: **COUNCILWOMAN ROXANNE M. BURNS
COUNCILMAN PETER L. CLOUGH
COUNCILMAN PAUL A. SIMMONS
COUNCILMAN JEFFREY M. SMITH
MAYOR BUTLER**

ALSO PRESENT: **CITY MANAGER JERRY C. HILLER
ASSISTANT CITY MANAGER MARY M. CORRIVEAU
CITY ATTORNEY JAMES BURROWS**

Assistant City Manager Corriveau presented the following reports to Council:

- No. 1 - Commissioner of Deeds
- No. 2 - Approving Agreement Between the City of Watertown and State of New York Unified Court System
- No. 3 - Approving Supplemental Agreement #1 for Machiselli Aid Local Agreement, Bellew Avenue Reconstruction, Right of Way Acquisition Phase, PIN 775272
- No. 4 Authorizing City of Watertown to Enter Into An Agreement with MMA Consulting Group, Inc. for a Comprehensive Fire Department Study and Police Department Staffing and Organization Study.
- No. 5 -Approving the Site Plan for the Expansion of the Parking Lot at 112-116 Haley Street, Parcels No. 11-14-223 & 11-14-224
- No. 6 - Finding that the Approval of the Zone Change Application of Barbara Willis to Change the Approved Zoning Classification for Parcel No. 1-21-111 Located in the 1100 Block of Superior Street from Residence "A" to Planned Development District No. 17 and the Construction of Six, 800 Sq. Ft. Detached Housing Units Will Not Have a Significant Impact on the Environment
- No. 7 - Approving the Site Plan for the Construction of Six 800 Sq. Ft. Detached Housing Units Located in the 1100 Block of Superior Street, Parcel No. 1-23-101.01, 1-23-101.02, 1-23-101.03, 1-23-101.04 and 1-21-111
- No. 8 Approving the Special Use Permit Request Submitted by Keith Caughlin of Schwerzmann & Wise, P.C. to Allow Two-Family Residential Use at 111-113 and 115-117 State Place, Parcels No. 6-08-128 & 6-08-127
- No. 9 Approving the Zone Change Request Submitted by Barbara Willis of North Country Affordable Housing, Inc., to Change the Approved Zoning Classification of Parcel No. 1-21-111 Located in the 1100 Block of Superior Street from Residence "A" to Planned Development District No. 17
- No.10 Local Law No. 4 of 2002 – Local Law Adopting Chapter 177 of the Watertown

City Code for the Maintenance of Properties in the City of Watertown
No. 11 Local Law No. 5 of 2002 – Local Law Requiring the Licensing of Private Refuse and
Recyclables Haulers and the Inspection and Registration of Vehicles Used for
Hauling Refuse and Recyclables

COMPLETE REPORTS ON FILE IN THE OFFICE OF THE CITY CLERK

Meeting opened with a moment of silence.

Pledge of Allegiance was given.

The reading of the minutes of the regular meeting of February 19, 2002 was dispensed with and accepted as written by motion of Councilwoman Burns, seconded by Councilman Simmons and carried with all voting in favor thereof.

COMMUNICATIONS

Minutes of the Board Meeting and the Annual Report were received from the Flower Memorial Library.

ABOVE PLACED ON FILE

From Watertown Assembly of God indicating that it is their intent to submit the proper plans showing grade and adequate drainage for the parking lot, prior to paving.

ABOVE PLACED ON FILE

Summons was received in the matter of the Claim of Richard M. Capone, Stephanie Capone and 35 PSR Corp. against the City of Watertown and Northern New York Excavating & Wrecking, Inc.

ABOVE PLACED ON FILE

Mayor Butler interrupted the regular course of business to proclaim the week of March 10-16th as **Girl Scout Week** in the City of Watertown. Two Scouts and Jane Gendron from the Thousand Island Girl Scout Council accepted the proclamation.

PRIVILEGE OF THE FLOOR

Olivia Russell, representing the neighbors near the salt pile, addressed the chair thanking the City for the steps that are being taken in testing the area. She asked what the time frame was and under what conditions the tests would be done.

Mayor Butler explained that it would be on-going testing at different times and under different conditions.

Mr. Hiller also explained that the City Attorney has been reviewing the testing proposal.

Attorney Burrows further explained that Attorney Slye reviewed the proposal and wrote back to the City explaining some issues that needed to be fine tuned in an effort to have the correct information if the City decided to pursue a public nuisance lawsuit.

Councilman Clough asked what the time frame would be.

Attorney Burrows explained that they would meet with Mr. Converse as soon as he is back in the area and is available. After that, it should only take about one week to start the testing process.

Paul Desormo, representing the Watertown Assembly of God Church, addressed the chair explaining that the church wants to cooperate with the neighbors in regard to the parking lot issue. He stated that they have never received any complaints before and that the next-door neighbor had always let them plow snow onto her property.

Art Mecomonaco, former City resident, addressed the chair concerning his solution for the proposed bus transfer site. He suggested using a portion of the island in the center of Public Square, commonly known as Peanut Park. He referred to the fact that years ago, the island was divided into three sections and there was a bus stop there at that time.

Rande Richardson, 269 Flower Avenue West, addressed the chair thanking Council for their support on the Flower statue project. He stated that the grant and matching funds are in place. He presented Mayor Butler with the funds raised to date and asked Council to consider allowing him to organize a task force for this specific project.

Richard Novy, West Carthage, addressed the chair in support of Mr. Richardson and the project.

Dan Francis, 463 Harris Drive, addressed the chair stating that he feels Mr. Mecomonaco's solution is a common sense approach to the bus transfer issue. He also questioned why the City is paying a consultant from Boston to undertake the fire and police study. He stated that there are people in-house who could conduct a staff study for far less than the \$44,000. He also commented that he didn't feel any Council member should pre-decide that they would accept the consultant's results. He stated that he felt the citizens should have input into the final decision.

Battalion Chief Patrick Wiley, 28-year member of the Fire Department, addressed the chair stating that the City hired consultants when hiring Chief Gaumont. Chief Gaumont has decided that the City needs 15 men and 3 stations. However, the City now doesn't want to hear what Chief Gaumont has to say and they want to hire consultants to see what their opinion is. Chief Wiley questioned why the Fire Department has not heard back from the City regarding the offer that they had proposed to save the City hundreds of thousands of dollars. He questioned why the City would spend \$44,000 and not look at the Fire Union's offer.

Mr. Hiller answered by explaining that the union's proposal, which is still only verbal, has been studied by Chief Gaumont and Dep. Chief Sayre to see what impact it would have throughout the organization. He explained that he would probably have the results of their study in another two weeks. At that time, Council will be shown what it means to the City, probably in executive session.

Rev. John Sperrazza, Watertown Assembly of God Church, addressed the chair explaining that it was their intention to alleviate the parking problem on Haley Street by putting in the parking lot being considered this evening.

Edward Moore, Ward Street, addressed the chair explaining that he has been the person opposing the parking lot. He stated that he merely wants to make sure that there is proper drainage on the site and is looking for assurances that this parking lot will not cause more water problems in his basement.

Mr. Desormo explained that the area of the parking lot is not going to get any more drainage than it did before over the years. He stated that he doesn't believe that what the church did caused water problems in Mr. Moore's basement.

PUBLIC HEARINGS

AT 7:30 P.M. MAYOR BUTLER ASKED THE CITY CLERK TO READ THE NOTICE OF PUBLIC HEARING "APPROVING THE SPECIAL USE PERMIT REQUEST SUBMITTED BY KEITH CAUGHLIN OF SCHWERZMANN & WISE, P.C., TO ALLOW TWO-FAMILY RESIDENTIAL USE AT 111-113 AND 115-117 STATE PLACE, PARCEL NO. 6-08-128 & 6-08-127."

MAYOR BUTLER DECLARED THE HEARING OPEN

Attorney Keith Caughlin offered to answer any questions concerning this request.

No one posed any questions.

MAYOR BUTLER DECLARED THE HEARING CLOSED AT 7:31 P.M.

AT 7:45 P.M. MAYOR BUTLER ASKED THE CITY CLERK TO READ THE NOTICE OF PUBLIC HEARING "APPROVING THE ZONE CHANGE REQUEST SUBMITTED BY BARBARA WILLIS OF NORTH COUNTRY AFFORDABLE HOUSING, INC. TO CHANGE THE APPROVED ZONING CLASSIFICATION OF PARCEL NO. 1-21-111 LOCATED IN THE 1100 BLOCK OF SUPERIOR STREET FROM RESIDENCE "A" TO PLANNED DEVELOPMENT DISTRICT NO. 17."

MAYOR BUTLER DECLARED THE HEARING OPEN.

No one spoke.

MAYOR BUTLER DECLARED THE HEARING CLOSED.

RESOLUTIONS

INTRODUCED BY COUNCILMAN PAUL A. SIMMONS

RESOLVED that the following individual is named Commissioner of Deeds for the term ending December 31, 2002:

City Employee

Theodore T. Wells

SECONDED BY COUNCILMAN PETER L. CLOUGH AND CARRIED WITH ALL VOTING YEA

INTRODUCED BY COUNCILMAN PETER L. CLOUGH

WHEREAS on March 5, 2001 the City Council of the City of Watertown adopted a resolution approving the Master Federal and Local Aid Agreement for the reconstruction of Bellew Avenue, and

WHEREAS the reconstruction of Bellew Avenue, PIN 775272, is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the cost of such program to be borne at the ratio of 80% federal funds and 20% non-federal funds, and

WHEREAS the City has received notification from the NYSDOT that the funding needs to be increased for the Right of Way Acquisition Phase of this project, and

WHEREAS the entire phase cost is \$76,700, with the federal share equal to \$61,630 and the non-federal share equal to \$15,340, and

WHEREAS Marchiselli funds have been requested for this phase of the project, in the amount of \$12,000, and

WHEREAS the City Council of the City of Watertown desires to advance the project by making a commitment of 100% of the non-federal share of the costs of this phase of the reconstruction of Bellew Avenue,

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Watertown

hereby approves Supplemental Agreement No 1 to the Marchiselli Local Agreement for the Right of Way Acquisition Phase of the reconstruction of Bellew Avenue, and

BE IT FURTHER RESOLVED that the City Council hereby authorizes the City Comptroller, James M. McCauley, to pay in the first instance 100% of the federal and non-federal share of the cost of the Right of Way Acquisition for the Project, and

BE IT FURTHER RESOLVED that the total cost for the above mentioned phase of the project is now \$76,700; with federal funding of \$61,360 and non-federal funding of \$15,340 and that the City Council authorizes the appropriation of \$15,340 from the Capital Fund to cover the City's cost of participation in the above phase of the project, and

BE IT FURTHER RESOLVED that in the event that the full federal and non-federal share costs of the project exceeds the amount appropriated above, the City Council of the City of Watertown shall convene as soon as possible to appropriate said excess amount immediately upon notification by the Assistant City Manager thereof, and

BE IT FURTHER RESOLVED that the Mayor of the City of Watertown is hereby authorized and directed to execute all necessary agreements, certifications or reimbursement requests for Federal Aid and/or Marchiselli Aid on behalf of the City of Watertown with the New York State Department of Transportation in connection with the advancement or approval of the project and providing for the administration of the project and the municipality's first instance funding of project costs and permanent funding of the local share of federal-aid and state-aid eligible project costs and all project costs within appropriations therefore that are not eligible, and

BE IT FURTHER RESOLVED that the Mayor is hereby authorized and directed to execute Supplemental Agreement No. 1 to the Marchiselli Aid Local Aid Agreement on behalf of the City of Watertown, a copy of which is attached and made a part of this resolution, and

BE IT FURTHER RESOLVED that a certified copy of this resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the project, and

BE IT FURTHER RESOLVED that this resolution will take effect immediately.

SECONDED BY COUNCILMAN JEFFREY M. SMITH AND CARRIED WITH ALL VOTING YEA

INTRODUCED BY COUNCILMAN PAUL A. SIMMONS

WHEREAS the City Council of the City of Watertown has determined that a comprehensive Fire Department Study and a Police Department Staffing and Organization Study is needed, and

WHEREAS the City of Watertown issued an RFP for said services, and

WHEREAS a selection committee was formed to review the responses received, and

WHEREAS it was the consensus of the committee that MMA Consulting Group, Inc., be hired by the City of Watertown to perform said studies at a fee of \$44,500,

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Watertown authorizes staff to enter into an Agreement with MMA Consulting Group, Inc., to provide services as described in their response to the City's RFP for a comprehensive Fire Department Study and a Police Department Staffing and Organization Study, a copy of which is attached and made a part of this resolution, and

BE IT FURTHER RESOLVED that payment for services rendered under the terms of the Agreement shall be in the amount of \$44,500, and

BE IT FURTHER RESOLVED that the City Manager Jerry C. Hiller is hereby authorized and directed to execute the Agreement on behalf of the City of Watertown.

SECONDED BY COUNCILWOMAN ROXANNE M. BURNS AND CARRIED WITH ALL VOTING YEA EXCEPT COUNCILMAN CLOUGH AND COUNCILMAN SMITH VOTING NAY

Prior to the vote on the foregoing resolution, Mayor Butler commented that Council recognizes the contentious issue of hiring consultants. He stated that while this has not been an easy, it was done so in an effort to make an informed decision based on the study. He stated that when \$10 million of the budget is for public safety, there is a need for a thorough study and how the results would impact the citizens. He stated that he feels there is not the experience and expertise to do the study in-house. He also explained that MMA was used to hire Chief Gaumont and MMA is currently doing other studies in New York State.

Councilman Simmons commented that Council had discussed the issue of doing the study in-house with the Fire Chief and Police Chief. He stated that if the Chiefs did the study, either the Council or the unions would think they were wrong depending on the outcome. In response to Mr. Francis' remarks about Councilman Simmons' intention to go along with the results of the study, Councilman Simmons explained that he is going along with the study because we are hiring them to do it. He also commented that these issues should be looked at in the City at a minimum of every ten years. This type of study has not been done since 1986.

Mayor Butler explained that this study would look at cost saving measures for public safety in the City. He also commented that he feels the Fire Chief and Police Chief would have a difficult time of coming up with an objective study.

Councilwoman Burns commented that public safety is the number one issue with every Council member. She remarked that she feels professionals have to make the decisions and the consultant has expertise in the field and would give an objective opinion. Councilwoman Burns explained that public safety becomes an emotional issue and it is too important to not have all the facts. She stated that she feels the money is well spent and would result in a thorough investigation.

Councilman Clough remarked that he would not be supporting the resolution due to all the reasons he has expressed in the past. However, he stated, that he does respect the opinions of the other Council members.

Councilman Smith also stated that while he does understand why other Council members are supporting this resolution, he feels that the study could be done in-house. He stated that he believes the Fire Chief and Police Chief could give the Council the information needed for Council to make an informed decision.

INTRODUCED BY COUNCILWOMAN ROXANNE M. BURNS

WHEREAS Rev. John Sperrazza, Pastor of Watertown Assembly of God, has made application for site plan approval for the expansion of the parking lot at 112-116 Haley Street, Parcels No. 11-14-223 and 11-14-224, and

WHEREAS the Planning Board of the City of Watertown reviewed the site plan at its meeting held on Tuesday, February 5, 2002, and recommended that the City Council of the City of Watertown approve the site plan, contingent upon the following:

1. That a grading and drainage plan be submitted to the Engineering Department for approval prior to any grading, installation of catch basins and before paving.
2. That a curb cut permit be obtained for the proposed entrance and that the curb cut to be eliminated be closed utilizing City standards.
3. That the buffer zone area be appropriately landscaped according to the Planning Board's buffer zone guidelines.

and,

WHEREAS the City Council has reviewed the Short Environmental Assessment Form, responding to each of the questions contained in Part 2, and has determined that the project, as submitted, is Unlisted and will not have a significant effect on the environment,

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Watertown declares that the proposed construction and site plan constitute an Unlisted Action for the purposes of SEQRA and hereby determines that the project, as proposed, will not have a significant effect on the environment, and

BE IT FURTHER RESOLVED by the City Council of the City of Watertown, New York that site plan approval is hereby granted to Rev. John Sperrazza, Pastor of Watertown Assembly of God, for the expansion of the parking lot at 112-116 Haley Street, Parcels No. 11-14-223 and 11-14-224, as shown on plans submitted to the City Engineer on January 30, 2002, contingent upon the applicant making the revisions and meeting the requirements listed above in the City Planning Board's recommendation.

SECONDED BY MAYOR JOSEPH M. BUTLER AND CARRIED WITH ALL VOTING YEA

Prior to the vote on the foregoing resolution, Council posed questions to the representatives from Watertown Assembly of God Church.

Rev. Sperrazza explained that it was the church's goal to get the project done as soon as possible. However, they were under the impression that there was not specific time frame.

Attorney Burrows explained that a time frame couldn't be placed in the resolution.

Mayor Butler stated that he had asked for this to be brought back to Council because if the site isn't approved, it can't be used as a parking lot.

Mr. Moore explained that the church is currently using it as a parking lot. He stated that they park up to his property line.

Mr. Desormo responded that they don't park up to the property line since they have plowed snow up to it and therefore, the cars are away from the line.

Rev. Sperrazza stated that they had been told that they could use it for parking while going through the process.

Attorney Burrows responded that this is correct.

Mayor Butler asked for clarification if this is not approved, they wouldn't be able to continue to use it.

Mrs. Corriveau stated that this is correct.

Attorney Burrows explained to Council that the resolution outlines three contingencies being met. He explained that the City Engineer and Mr. Fluno, a private engineer, both looked at the site and determined that they saw no problem with drainage. He also explained that in these cases, as a practical matter, we have to believe the project will move ahead in good faith.

Councilman Clough asked about the buffers.

Rev. Sperrazza explained that the church would landscape in the spring.

Attorney Burrows advised Council that the applicant could use buffer zones. They can plow snow on them if they wish. Also, many times buffer zones only need grass, not shrubs.

Councilman Simmons asked about the fence issue.

Mr. Desormo and Rev. Sperrazza explained that Mr. Moore had complained about looking at a parking lot. Mr. Moore put up a 4' fence. The church offered to put up a higher one. The church representatives explained that the west side neighbor asked that the fence be 6' and graduated down. As a result the Planning Board requested a 6' fence across the back.

Mr. Desormo also mentioned that the neighbors wanted the church to leave up the trees that are on church property. However if they want the fence, the trees will have to go.

Mr. Moore stated that he is most concerned about the time frame and damage to his property.

Councilwoman Burns commented that it would have been helpful if Mr. Liu had been present this evening. While Attorney Burrows did an excellent job of addressing questions, Mr. Liu's input would have been helpful to Council.

Councilman Simmons remarked that the parking lot plowing area does slope back and it will need to be addressed in the future.

Rev. Sperrazza brought up the fact that there is no storm sewer on Haley Street.

Attorney Burrows explained that, under law, it cannot be drained into the sanitary sewer. Therefore, the plan would have to be to drain to an area that is appropriate and let gravity take its course.

INTRODUCED BY COUNCILMAN PETER L. CLOUGH

WHEREAS the City Council of the City of Watertown, New York has before it an ordinance for the zone change application to change the approved zoning classification of Parcel No. 1-21-111 located in the 1100 block of Superior Street from Residence "A" to Planned Development District No. 17, and a resolution for the site plan application for the construction of six, 800 sq. ft. detached housing units submitted by Barbara Willis, Executive Director of North Country Affordable Housing, Inc., and

WHEREAS the City Council must evaluate all proposed actions submitted for its consideration in light of the State Environmental Quality Review Act (SEQRA) and the regulations promulgated pursuant thereto, and

WHEREAS the adoption of the proposed ordinance and construction constitute such an “Action”, and

WHEREAS the City Council has determined that the proposed ordinance and construction are an “Unlisted Action” as that term is defined in 6NYCRR Section 617.2(ak), and

WHEREAS there are no other involved agencies for SEQRA review as that term is defined in 6NYCRR Section 617.2(s), and

WHEREAS to aid the City Council in its determination as to whether the proposed zone change will have a significant effect on the environment, Part 1 of a Short Environmental Assessment Form has been prepared by Barbara Willis, a copy of which is attached and made part of this resolution,

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Watertown, New York that:

1. Based upon its examination of the Short Environmental Assessment Form and comparison of the proposed action with the criteria set forth in 6NYCRR Section 617.7, no significant impact on the environment is known and the adoption of the zone change and construction of the project will not have a significant effect on the environment.

2. The Mayor of the City of Watertown is authorized to execute Part 3 of the Environment Assessment Form to the effect the City Council is issuing a Negative Declaration under SEQRA.

3. This resolution shall take effect immediately.

SECONDED BY COUNCILMAN PAUL A. SIMMONS AND CARRIED WITH ALL VOTING YEA

INTRODUCED BY COUNCILMAN PAUL A. SIMMONS

WHEREAS Rick W. Tague of Bernier Carr & Associates, P.C., has made application for site plan approval on behalf of North Country Affordable Housing Inc., for the construction of six, 800 sq. ft detached housing units located in the 1100 block of Superior Street, Parcels No. 1-23-101.01, 1-23-101.02, 1-23-101.03, 1-223-101.04 and 1-21-111, and

WHEREAS the Planning Board of the City of Watertown reviewed the site plan at its meeting held on Tuesday, February 5, 2002, and recommended that the City Council of the City of Watertown approve the site plan, contingent upon the following:

1. That adequate site lighting is provided for the project.
2. That a traffic barrier is added along the east side of the entrance drive near the

- area of the steep slope.
3. That the proposed sidewalks are extended to connect sidewalks located in the existing Kelsey Creek Apartment complex.
 4. That the applicant is successful in purchasing Parcel No. 1-21-111.
 5. That the parcels are combined by way of a new metes and bounds description filed with the County Clerk.

And,

WHEREAS the City Council has determined, by resolution, that the project, as submitted, is an Unlisted Action, and will not have a significant effect on the environment,

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Watertown, New York that site plan approval is hereby granted to Rick W. Tague of Bernier Carr & Associates, P.C., on behalf of North Country Affordable Housing, Inc., for the construction of six, 800 sq. ft. detached housing units located in the 1100 block of Superior Street, Parcels No. 1-23-101.01, 1-23-101.02, 1-23-101.03, 1-23-101.04 and 1-21-111, as shown on plans submitted to the City Engineer on January 22, 2002, contingent upon the applicant making the revisions and meeting the requirements listed above in the City Planning Board's recommendation.

SECONDED BY COUNCILWOMAN ROXANNE M. BURNS AND CARRIED WITH ALL VOTING YEA EXCEPT COUNCILMAN SMITH VOTING NAY

THE RESOLUTION "APPROVING THE SPECIAL USE PERMIT REQUEST SUBMITTED BY KEITH CAUGHLIN OF SCHWERZMANN & WISE, P.C., TO ALLOW TWO-FAMILY RESIDENTIAL USE AT 111-113 AND 115-117 STATE PLACE, PARCEL NO. 6-08-128 & 6-08-127" WAS PRESENTED TO COUNCIL (Introduced on February 19, 2002; public hearing held this evening; appears in its entirety on page 30 of the 2002 Minutes Book).

Prior to the vote on the foregoing resolution, Councilman Smith asked about the parking issue at this location.

Attorney Caughlin explained that the neighbors had pointed out to the Planning Board that there had always been a parking issue at this location.

Mr. Hiller explained that the Planning and Engineering Departments have looked at two different site plan reviews, which would provide off street parking subject to the larger development project going through.

Councilman Clough asked what would happen if that project didn't go through.

Attorney Burrows explained that parking problems have always existed in that neighborhood. To improve the parking does involve the Planning Department and Mr. Mix didn't think it was an impediment.

Attorney Burrows explained why this special use permit is before Council. He explained that these properties are two run-down properties that are going to be completely vacant and then rehabbed. As a result of the time needed for this project, the grandfather status for the two-family residences would be lost. The special use permit allows the same use as it is now. It was also explained that there is some room on the property for parking, which has worked since 1920.

AT THE CALL OF THE CHAIR VOTE WAS TAKEN ON THE FOREGOING RESOLUTION AND CARRIED WITH ALL VOTING IN FAVOR THEREOF.

ORDINANCES

THE ORDINANCE "APPROVING THE ZONE CHANGE REQUEST SUBMITTED BY BARBARA WILLIS OF NORTH COUNTRY AFFORDABLE HOUSING, INC. TO CHANGE THE APPROVED ZONING CLASSIFICATION OF PARCEL NO. 1-21-111 LOCATED IN THE 1100 BLOCK OF SUPERIOR STREET FROM RESIDENCE "A" TO PLANNED DEVELOPMENT DISTRICT NO. 17" WAS PRESENTED TO COUNCIL
(Introduced on February 19, 2002; public hearing held this evening; appears in its entirety on page 32 of the 2002 Minutes Book).

AT THE CALL OF THE CHAIR VOTE WAS TAKEN ON THE FOREGOING ORDINANCE AND CARRIED WITH ALL VOTING IN FAVOR THEREOF EXCEPT COUNCILMAN SMITH VOTING NAY

Commenting on the foregoing ordinance, Councilman Smith asked if this property would be taxable.

Ms. Willis explained that they are not requesting tax exemption. She explained that they are currently paying taxes on the 132 units at Kelsey Creek and have done so for the past 10 years. She explained that these are subsidized housing units for low-income elderly.

Councilman Smith questioned the need for them.

Ms. Willis explained that based on a study conducted by the JCC Depart. Of Community Studies, there is a need for this type of housing. She explained that they anticipate 6 of these units. Clayton currently has 8 units. They are one-story houses, which are utilized by elderly that are now living in larger homes that they no longer need, or doubling up with family, which isn't always pleasant for all involved.

Councilman Smith responded that there is lots of good housing currently available in the City and he feels that this project would be in competition with the private sector.

LOCAL LAW

INTRODUCED BY COUNCILMAN PETER L. CLOUGH

A local law adopting Chapter 177 of the Code of the City of Watertown providing for the maintenance of properties in the City of Watertown.

WHEREAS, the New York Municipal Home Rule Law permits the adoption of local laws by a city in furtherance of the health, safety and welfare of the residents of the City; and

WHEREAS, the City Council of the City of Watertown has determined that many properties in the City, both residential and non-residential, are blighted properties which detract from property values in general, and which contribute to the decline of neighborhoods to the detriment of the public at large; and

WHEREAS, the City Council of the City of Watertown believes that it is in the best interests of the residents of the City to insure that all properties comply with the State and local building and fire safety, zoning, and property maintenance codes; and

WHEREAS, the City Council of the City of Watertown desires to adopt a Property Maintenance Code the enforcement of which, over time, will generally remove blight and increase property values and foster pride in the appearance of the community; and

WHEREAS, the City Council of the City of Watertown believes that the establishment and enforcement of standards for property maintenance can be accomplished in a fair and reasonable manner, and be enforced with a minimal intrusion upon the rights of property owners; and

WHEREAS, the City Council of the City of Watertown believes that the benefit to the community as a whole by implementing a Property Maintenance Code far outweighs any detriment to the property owners in establishing and enforcing such a Code.

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF WATERTOWN, NEW YORK as follows:

Chapter 177 to the Watertown City Code, entitled "Property Maintenance Code" shall be adopted as attached to this local law.

CHAPTER 177

PROPERTY MAINTENANCE

ARTICLE I

GENERAL

§177-1 Title. These regulations shall be known as the Property Maintenance Code of the City of Watertown, hereinafter referred to as "this code."

§177-2 Scope. The provisions of this code shall apply to all existing residential and nonresidential structures and all existing premises and constitute minimum requirements and standards for premises, structures, sanitation, protection from the elements, safety from other hazards, and for safe and sanitary maintenance; the responsibility of owners, operators and occupants for their properties; and for administration, enforcement and penalties.

§177-3 Intent. This code shall be construed to secure its expressed intent, which is to eliminate blight, to promote maintenance of property, and to thereby ensure public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.

§177-4 Severability. If a section, subsection, sentence, clause or phrase of this code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

ARTICLE II APPLICABILITY

§177-5 General. The provisions of this code shall apply to all matters affecting or relating to structures and premises except as to those matters governed by the provisions of the New York State Fire Prevention and Building Code, as the same shall be amended from time to time. Where, in a specific case, different sections of this code specify different requirements, the most restrictive shall govern.

§177-6 No Private Cause of Action. Nothing in this code shall be deemed to create a private cause of action in favor of one party against another.

§177-7 Application of other codes. Repairs, additions or alterations to a structure, or changes of occupancy, shall be made or accomplished in accordance with the procedures and provisions of the New York State Fire Prevention and Building Code, as the same shall be amended from time to time. Nothing in this code shall be construed to cancel, modify or set aside any provisions of the New York State Fire Prevention and Building Code.

§177-8 Existing remedies. The provisions in this code shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any structure which is dangerous, or unsafe as authorized by the *New York General City Law*, as amended.

§177-9 Workmanship. Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this code shall be executed and installed in

a workmanlike manner and installed in accordance with the manufacturer's installation instructions.

§177-10 Requirements not covered by code. Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health and general welfare, not specifically covered by this code, shall be determined by the authority having jurisdiction thereof.

ARTICLE III CODE ENFORCEMENT SUPERVISOR

§177-11 General. Property maintenance inspection as required by this Code shall be the responsibility of the City of Watertown Code Enforcement Supervisor and such other persons as shall be designated by the City Manager.

§177-12 Restriction of employees. No official or employee connected with the enforcement of this code shall be engaged in, or directly or indirectly connected with, the furnishing of labor, materials or appliances for the construction, alteration or maintenance of a building within the City, or the preparation of construction documents therefor, unless that person is the owner of the building.

§177-13 Liability. Neither the Code Enforcement Officer nor any of his or her deputies, while acting for the City, shall thereby be rendered liable personally, and each is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act required or permitted in the discharge of official duties. Any suit instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties under the provisions of this code shall be defended by the City as permitted by New York Public Officers Law §18, as amended.

§177-14 Duties and Powers. The Code Enforcement Supervisor and his or her deputies shall enforce the provisions of this Code.

§177-15 Inspections. The Code Enforcement Supervisor and his or her deputies ("Code Personnel") shall make all of the required inspections, or shall accept reports of inspection by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The Code Enforcement Supervisor is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the City Manager.

§177-16 Right of entry. Code Personnel are authorized to enter a structure or premises at reasonable times to inspect subject to constitutional restrictions on unreasonable searches and seizures. If entry is refused or not obtained, the Code Personnel are authorized to pursue an inspection as provided by law.

§177-17 Identification. All Code Personnel shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

§177-18 Notices and orders. Code Personnel shall issue all necessary notices or orders to ensure compliance with this code.

§177-19 Coordination of inspections. Whenever in the enforcement of this code or another code or ordinance, the responsibility of more than one official of the City is involved, it shall be the duty of the Code Enforcement Supervisor to coordinate their inspections and administrative

orders as fully as practicable so that the owners and occupants of the structure shall not be subjected to visits by numerous inspectors or multiple or conflicting orders. Whenever an inspector from any City agency or department observes an apparent or actual violation of some provision of some law, ordinance or code not within the inspector's authority to enforce, the inspector shall report the findings to the City official having jurisdiction.

ARTICLE IV MODIFICATIONS OF REQUIREMENTS

§177-20 Modifications. Whenever there are practical difficulties involved in carrying out the provisions of this code, the City Engineer shall have the authority to grant modifications for individual cases, provided the City Engineer shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. The details of any action granting modifications shall be recorded and entered in the City Engineering department files.

ARTICLE V VIOLATIONS

§177-21 Unlawful acts. It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this code.

§177-22 Notice of violation. The Code Enforcement Supervisor shall serve a notice of violation or order in accordance with Article VI of this code.

§177-23 Prosecution of violation. Any person failing to comply with a notice of violation or order served in accordance with Article VI of this Code shall be deemed guilty of a violation of this code and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the Code Enforcement Supervisor shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto.

§177-24 Violation penalties. In addition to any injunctive relief which may be sought, any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, shall be fined on the first offense of a violation of this code, a fine of \$50.00. Each day that a violation continues after due notice has been served shall be deemed a separate offense subject to a daily fine of \$50.00 per day. Any person who is found to have committed a separate offense after having been found to commit an earlier offense within any two (2) year period shall be assessed a fine of \$100.00 per offense. The purpose of this provision is to double the fines assessed against those persons.

§177-25 Abatement of violation. The imposition of the penalties herein prescribed shall not preclude the City from instituting appropriate action to restrain, correct or abate a violation or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of a building, structure or premises.

ARTICLE VI NOTICES AND ORDERS

§177-26 Notice to owner or to person or persons responsible.

Whenever the Code Enforcement Supervisor determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given to the owner or the person or persons responsible therefore in the manner prescribed in Sections 177-27 and 177-28.

§177-27 Form. Such notice prescribed in Section 177-26 shall:

1. Be in writing;
2. Include a description of the real estate sufficient for identification;
3. Include a statement of the violation or violations and why the notice is being issued;
4. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this code; and
5. Include a notice containing the right to appeal the Code Enforcement Supervisor's determination to the City Engineer in accordance with Article VII of this code.

§177-28 Method of service. Such notice shall be deemed to be properly served if a copy thereof is:

1. Delivered personally; or
2. Sent by certified or first-class mail addressed to the last known address; or
3. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

ARTICLE VII APPEALS

§177-29 Appeal to City Engineer. Any person aggrieved by a determination of the Code Enforcement Supervisor to the effect that a Notice of Violation or Order served in accordance with Article VI is in error, or should, due to hardship, be modified or entitled to a variance from enforcement, or that a reasonable extension of time for the compliance should be granted upon the grounds of a demonstrated case of hardship and evidence of an actual undertaking to correct the violation, together with a bonafide intent to comply within a reasonable time period, may appeal to the City Engineer for rescission of the Notice or Order, or for a modification, variance, or extension of time for compliance.

§177-30 Procedure and hearing. A request for rescission, modification, variance, or extension of time shall be made in writing, to the City Engineer, within ten (10) days of the Appellant's receipt of a copy of the Notice or Order. The City Engineer shall schedule a hearing within thirty (30) days of his receipt of the request, and shall file his decision with the Code

Enforcement Supervisor within forty-five (45) days after the hearing. The City Engineer may reverse or affirm in whole or in part, or may modify the Order, Notice, requirement, decision or determination appealed from, and may make such Order, requirement, decision or determination as justice would require.

§177-31 Tolling of compliance times. Pending the City Engineer's determination on the appeal, all timelines for compliance with notices and orders issued under Article VI shall be tolled. If a Notice or Order is affirmed or modified, the City Engineer shall, in the determination on appeal, establish a reasonable time to make the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this code.

ARTICLE VIII UNSAFE STRUCTURES

§177-32 General. Unsafe structures shall be dealt with as provided at Chapter 104 of the Watertown City Code.

§177-33 Imminent danger. When, in the opinion of the Code Enforcement Supervisor, there is imminent danger of failure or collapse of a building or structure which endangers life or other property, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the Code Enforcement Supervisor is hereby authorized and empowered to order and require the occupants to vacate the premises. The Code Enforcement Supervisor shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the City of Watertown." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

ARTICLE IX DEFINITIONS

§177-34 Scope. Unless otherwise expressly stated, the following terms shall, for the purposes of this code, have the meanings shown in this chapter.

§177-35 Interchangeability. Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neutral; the singular number includes the plural and the plural, the singular.

§177-36 Terms defined in other codes. Where terms are not defined in this code and are defined in the New York State Fire Protection and Building Code, NFPA, *International Building Code*, *International Fire Code*, *International Zoning Code*, *International Plumbing Code*, *International Mechanical Code*, ASME A 17.1 or the ICC *Electrical Code*, such terms shall have the meanings ascribed to them as in those codes.

§177-37 Terms not defined. Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

§177-38 Parts. Whenever the words "dwelling unit," "dwelling," "premises," "building," "rooming house," "rooming unit" or "story" are stated in this code, they shall be construed as though they were followed by the words "or any part thereof."

§177-39 General Definitions. For purposes of this Chapter, the following definitions shall apply:

APPROVED. Approved by the Code Enforcement Supervisor.

BASEMENT. That portion of a building which is partly or completely below grade.

CODE ENFORCEMENT SUPERVISOR. The official who is charged with the administration and enforcement of this code, or any of his or her duly authorized representatives.

EXTERIOR PROPERTY. The open space on the premises and on adjoining property under the control of owners or operators of such premises.

EXTERMINATION. The control and elimination of insects, rats or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food; by poison spraying, fumigating, trapping or by any other approved pest elimination methods.

GARBAGE. The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

IMMINENT DANGER. A condition which could cause serious or life-threatening injury or death at any time.

INFESTATION. The presence, within or contiguous to, a structure or premises of insects, rats, vermin or other pests.

OCCUPANCY. The purpose for which a building or portion thereof is utilized or occupied.

OCCUPANT. Any individual living or sleeping in a building, or having possession of a space within a building.

OPERATOR. Any person who has charge, care or control of a structure or premises which is let or offered for occupancy.

OWNER. Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the office of the Jefferson County Clerk holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

PERSON. An individual, corporation, partnership or any other group acting as a unit.

PREMISES. A lot, plot or parcel of land including any structures thereon, whether residential or commercial.

RODENT. Any of various mammals, as a mouse, rat, or squirrel, having teeth adapted for gnawing.

RUBBISH. Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

STRICT LIABILITY OFFENSE. An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited, or failed to do an act which the defendant was legally required to do.

STRUCTURE. That which is built or constructed or a portion thereof.

TENANT. A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

VACANT STRUCTURE. A structure which is not occupied and devoid of any indicia of occupancy.

WORKMANLIKE. Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

YARD. An open space on the same lot with a structure.

ARTICLE X GENERAL REQUIREMENTS

'177-40 Scope. The provisions of this chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and exterior property.

'177-41 Responsibility. The owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in this code. A person shall not occupy as owner/occupant or permit another person to occupy premises which are not in a sanitary and safe condition and which do not comply with the requirements of this chapter.

Occupants of a dwelling unit are responsible for keeping in a clean, sanitary and safe condition that part of the dwelling unit or premises which they occupy and control.

'177-42 Vacant structures and land. All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

**ARTICLE XI
EXTERIOR PROPERTY AREAS**

'177-43 Sanitation. All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The owner or occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.

'177-44 Sidewalks and driveways. All private sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions. This section is not intended to create a cause of action in favor of any third party.

'177-45 Weeds or grass. All premises shall be maintained free of weeds, grass, and rank vegetation in accordance with Chapter 98 of the City Code.

'177-46 Trees and shrubs. All trees and shrubs on the premises shall be kept properly trimmed and maintained such that they do not present a public nuisance.

'177-47 Rodent harborage. All exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.

'177-48 Accessory structures. All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair as outlined at Article XII of this code.

'177-49 Fences. The height, size, and style of fencing permitted is set forth at Chapter 310 of the City Code

'177-50 Burned structures. Any burned structure which has not been found to be an unsafe structure under Chapter 104 of the City Code shall, within one (1) month of the fire, have each window affected by the fire covered with a single sheet of plywood, minimum thickness of 7/16" fitted within the window frame, and painted flat black or other color approved by the Code Enforcement Supervisor. A minimum 2" width vent shall be provided at the top of each window opening. The vent must prohibit entry by birds, bats or other animals. All other exterior portions of the structure must be brought into compliance with this code within six (6) months of the fire.

'177-51 Boarded windows. Each boarded window of any structure in the City must be covered with a single sheet of plywood, minimum thickness of 7/16" fitted within the window frame, and painted flat black or other color approved by the Code Enforcement Supervisor. A minimum 2" width vent shall be provided at the top of each window opening. The vent must prohibit entry by birds, bats, or other animals.

'177-52 Motor Vehicles. All motor vehicles shall be stored or kept as required by Chapter 169 of the City Code.

'177-53 Repair of defaced property. It will be the responsibility of the owner to restore defaced property to eliminate signs of graffiti, markings or carvings.

**ARTICLE XII
EXTERIOR STRUCTURE**

'177-54 General. The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

'177-55 Protective treatment. All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences shall be maintained in good condition. Exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion. Oxidation stains shall be removed.

'177-56 Exterior walls. All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface-coated where required to prevent deterioration.

'177-57 Roofs and drainage. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and down spouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

'177-58 Decorative features. All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

'177-59 Overhang extensions. All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, stand pipes, and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.

'177-60 Stairways, decks, porches and balconies. Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

'177-61 Chimneys and towers. All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.

'177-62 Handrails and guards. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

'177-63 Window, skylight and door frames. Every window, skylight door and frame shall be kept in sound condition and in good repair.

'177-64 Glass. All glass and plexiglass materials shall be maintained free from cracks and holes if such cracks and holes pose a safety risk.

'177-65 Openable windows. Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.

'177-66 Doors. All exterior doors, door assemblies and hardware shall be maintained in good condition. Locks at all entrances to dwelling units, rooming units and guestrooms shall tightly secure the door.

'177-67 Basement hatchways. Every basement hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.

**ARTICLE XIII
RUBBISH AND GARBAGE**

'177-68 Accumulation of rubbish or garbage. All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.

'177-69 Disposal of rubbish. Rubbish shall be disposed of as required by Chapter 161 of the City Code.

**ARTICLE XIV
EXTERMINATION**

'177-70 Infestation. All structures shall be kept free from insect and rodent infestation. All structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent reinfestation.

'177-71 Owner. The owner of any structure shall be responsible for extermination within the structure.

'177-72 Single occupant. The occupant of a one family dwelling or of a single tenant nonresidential structure shall also be responsible for extermination on the premises

'177-73 Multiple occupancy. The owner of a structure containing two or more dwelling units, a multiple occupancy, or a nonresidential structure shall be responsible for extermination in all areas of the structure and exterior property.

SECONDED BY COUNCILMAN JEFFREY M. SMITH

MOTION WAS MADE BY COUNCILWOMAN BURNS TO SCHEDULE A PUBLIC HEARING ON THE FOREGOING LOCAL LAW FOR MONDAY, MARCH 18,2002 AT 7:15 P.M.

MOTION WAS SECONDED BY COUNCILMAN SIMMONS AND CARRIED WITH ALL VOTING IN FAVOR THEREOF.

INTRODUCED BY COUNCILMAN JEFFREY M. SMITH

A Local Law to establish a registration program for private haulers of refuse and recyclables, and calling for the inspection and registration of vehicles used by those private haulers on City streets.

WHEREAS, there exists in the City of Watertown several private haulers of refuse for one-family, two-family and three-family homes; and

WHEREAS, the level of service provided by these several haulers vary; and

WHEREAS, many private refuse haulers do not collect recyclables from their refuse customers; and

WHEREAS, the failure of the private haulers to collect recyclables results in the collection of those recyclables falling to the City of Watertown and, ultimately, the taxpayers; and

WHEREAS, it is inequitable to the taxpayers of the City of Watertown to subsidize the collection of recyclables for those persons who utilize a private hauler for their refuse, but rely upon the City to remove their recyclables; and

WHEREAS, vehicles used by private haulers are often incapable of adequately holding the refuse they collect, such that refuse is caused to be spread along City streets; and

WHEREAS, vehicles used in the hauling of rubbish in the City should further be watertight, such that refuse, including garbage, will not be spilled upon the City streets; and

WHEREAS, the City Council of the City of Watertown deems it to be in the best interests of the residents of the City of Watertown to ensure that each vehicle using City streets for the collection of refuse and recyclables meets certain minimum standards and carries certain minimum equipment to protect the health, safety and welfare of the residents of the City of Watertown; and

WHEREAS, the City Council of the City of Watertown believes that each vehicle used for the transport of refuse or recyclables in the City should be inspected and registered on an annual basis and that haulers should apply for and receive a license to carry on a hauling business in the City upon satisfaction of certain criteria; and

WHEREAS, the City Council of the City of Watertown deems it to be in the best interest of the citizens of the City to require all haulers to properly collect and dispose of recyclables for their customers in the City; and

WHEREAS, the New York Municipal Home Rule permits a City to adopt a local law not inconsistent with general laws of the State.

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF WATERTOWN, NEW YORK that Chapter 161 of the Code of the City of Watertown shall be amended as follows:

§161-3- Shall be amended to read:

No person shall place or deposit any rubbish upon any property of another.

§161-5(A)- Shall be amended to read:

A. Garbage and ordinary household rubbish such as non-recyclable cans, bottles, paper, rags, cartons, and similar household articles which accumulate daily.

§161-5 - Shall be amended to add the following definition:

RECYCLABLES - Newspapers, magazines, junk mail, office and school paper, plastic bottles with the 1, 2, 3 or 5 designation, metal cans, clear, green and brown glass bottles and jars.

§161-6 - Subsection “B” shall be repealed.

§161-6 - Shall be amended to add:

(D) No recycling services will be provided to any City resident who does not participate in the municipal refuse collection services as provided at 161-22 of this code.

§161-7 - Shall be repealed.

§161-8 - Shall be repealed.

§161-12 -Shall be repealed.

§161-13 -Shall be repealed.

§161-12 through §161-19 (New) - Shall be added as follows.

§161-12 License required for private transportation or collection of refuse.

No person or entity other than the City shall collect or transport refuse from one-family, two-family, or three-family dwellings in the City without having first obtained a license for the same issued on a form prescribed by the City Clerk. Such license shall be issued annually, on or before April 15th of each calendar year, and shall only be issued upon application to the City Clerk, which application shall include the following information:

- A) The name, address, and telephone number of the person or the entity conducting the collection or transportation activity;
- B) If the entity is a corporation, partnership, limited liability company, or other legal entity, the name, address, and telephone number of the person to whom legal notice may be sent;

- C) A certification by the person or entity seeking the license that it will provide the collection of refuse from each of its City customers at least once per week;
- D) A certification by the person or entity seeking the license that it will provide the collection of recyclables from each of its City customers at least once every two weeks;
- E) A certification by the person or entity seeking the license that it will comply with all State, County and City Laws and Regulations, including this Article, pertaining to the collection transportation and disposition of refuse and recyclables;
- F) A certification that each vehicle used to transport refuse or recyclables has been inspected and registered as required by this Chapter;
- G) Proof of payment of the vehicle inspection and registration fees as prescribed in this chapter; and
- H) Payment of an annual licensing fee of \$100.00.

§161-13 Required equipment for transporting refuse and recyclables

Each vehicle used to transport refuse collected by a person or entity providing a refuse collection service for one-family, two-family and three-family dwellings in the City shall be rigid body and closed, and water-tight, meaning that the vehicle's box is capable of holding two inches of water in the bottom of the box without leaking or spillage.

Each vehicle used to transport recyclables must be rigid body and closed, or have all sides enclosed and covered with a tarp, such that it will not permit material to escape or to be discharged while traveling the City roadways.

Each refuse and/or recycling vehicle shall be equipped with a shovel, broom, and a 15 pound Class "ABC" fire extinguisher. Each such vehicle shall display the name of the licensee, with telephone number, and the licensee's permit number on each side of the vehicle or its box in letters of at least four (4) inches in height.

§161-14 City registration of vehicles for transporting refuse and recyclables

Each vehicle used to collect or transport refuse or recyclables in the City, other than City vehicles, must be registered with the City Clerk before it may be used in connection with the license issued under '161-12. Registration of vehicles is limited to the City's insurance that each vehicle complies with the equipment requirements contained at §161-13.

Each vehicle proposed for registration must be inspected by the City's Superintendent of Public Works, or such deputy as the Superintendent may designate, in writing, for that purpose. Inspections shall be conducted at such times and places as the licensee and the City representative shall agree, and shall be valid for a period of one year.

If a vehicle meets the City's requirements upon inspection, the City Clerk shall, upon payment of the appropriate fee, issue a certificate of vehicle registration on a form prescribed by the City Clerk, which form must be prominently displayed in the cab of the vehicle.

§161-15 Annual Fees

The annual fee for licensing under Section 161-12 shall be \$100.00, which fee shall be collected by the City Clerk. The annual fee to be collected by the City Clerk for registration of any one (1) vehicle shall be \$25.00 per year. The City Clerk shall also collect an inspection fee for each vehicle proposed to be utilized, prior to each annual inspection, in the amount of \$20.00.

§161-16 Services to be provided by private collectors

Any person or entity other than the City collecting refuse from one-family, two-family, or three-family dwellings in the City shall provide each of its customers with refuse collection service at least once per week. Such person or entity must also provide those same customers with recyclables collection, which service must be provided at least once every two weeks.

§161-17 Failure to provide service as required

Any person or entity obligated to provide the services required by '161-16 and which fails to provide that service shall be subject to the revocation of its license and/or vehicle registration by the City's Superintendent of Public Works after a hearing held by him on at least ten (10) calendar days notice commenced by mailing by certified mail, return receipt requested, of a notice for the hearing, to the address provided in accordance with '161-12(A) or (B) of this Chapter.

§161-18 Penalties

Any person or entity which operates a vehicle in the City for the collection or transportation of refuse or recyclables without complying with the licensing requirements of §161-12 or the vehicle registration and inspection requirements of §161-14 shall, upon conviction, be subject to a fine of not less than \$50.00 nor more than \$250.00. Each day of continued violation is a separate and distinct offense.

§161-19 In addition to any of the penalties called for under Section 161-17 and 161-18 of this Code, the City may commence an action to compel compliance with this Chapter or to enjoin the collection of refuse or recyclables by any person or entity which has failed to obtain or maintain the licenses or while inspections or registrations required by this Chapter.

§161-14 - Shall be renumbered as §161-20.

§161-15 - Shall be renumbered as §161-21.

§161-16 - Shall be renumbered as §161-22.

SECONDED BY COUNCILMAN PAUL A. SIMMONS

MOTION WAS MADE BY COUNCILWOMAN BURNS TO SCHEDULE A PUBLIC HEARING ON THE FOREGOING LOCAL LAW FOR MONDAY, MARCH 18, 2002 AT 7:30 P.M.

MOTION WAS SECONDED BY COUNCILMAN CLOUGH AND CARRIED WITH ALL VOTING IN FAVOR THEREOF.

COUNCIL DISCUSSED THE FOLLOWING TOPICS:

DPW Study

Councilman Smith asked what the actual consultant cost was for this study.

Mr. Hiller explained that the second figure of \$9,700 was correct.

Councilman Smith stated that while he is not trying to micro-manage, he asked if the City Manager had the authority to spend without Council's approval and what the cap for this spending was.

Attorney Burrows explained that the City Manager does have the authority to commission studies and he doesn't know of a spending cap.

Mr. Hiller stated that while he doesn't know of any cap, General Municipal Law 103 does put on \$20,000 cap in regards to competitive bidding.

Councilman Smith remarked that while he knows that spending is authorized within the budget, he feels that hiring a consultant with \$10,000 of taxpayers' money should be reviewed by the Council.

Mr. Hiller responded that if Council wishes, they would be made aware whenever a consultant is being engaged.

Councilman Simmons asked where the money came from to pay for this study.

Mr. Hiller explained that it came from the savings in the yearly curbside trash pickup and J.B. Wise drop off programs.

Insurance Study

Councilman Smith remarked that he hopes a consultant has not been hired for the insurance study, as there is expertise in the community, which would do it for free.

Mr. Hiller stated that a consultant has been hired and has started the study.

Councilman Simmons explained that he had met with Mr. Hiller concerning this and had his questions answered as to why a consultant should be hired.

Mr. Hiller explained that there is no in-house expertise to do this study. He stated that another option would have been to put together an ad hoc committee. However, members of the committee would have to withdraw themselves from the bidding.

Councilman Smith stated that without anyone rewriting the specs, we have expertise in the community that could give us advice for free and then a comparison could be done. He questioned how much the consultant for this would cost.

Mr. Hiller stated that it is at \$140 per hour and should be in the \$5,000 to \$7,500 range.

Reapportionment Boundaries

MOTION WAS MADE BY COUNCILMAN CLOUGH TO SEND A LETTER TO THE COUNTY ADDRESSING CONCERNS WITH THE PROPOSED NEW COUNTY LEGISLATURE BOUNDARY LINES AND TO SEND A LETTER TO THE STATE ADDRESSING CONCERNS WITH THE PROPOSED NEW STATE ASSEMBLY BOUNDARY LINES.

MOTION WAS SECONDED BY COUNCILMAN SMITH AND CARRIED WITH ALL VOTING IN FAVOR THEREOF.

Prior to the vote on the foregoing motion, Council members discussed these issues with Legislators Jenny Adsit and Scott Gray.

Councilman Clough explained that the proposed legislature lines would put the northeast portion of the City of Watertown in the Pamela district. The City could end up with 3 legislators instead of 4 and the north side could end up with no one to represent them on the legislature.

Councilwoman Burns commented that it would be beneficial if the taxpayers were informed about this process and the effects it would have on the City.

Councilman Simmons remarked that we need to make it clear that this is not a plan that the City supports.

Mayor Butler will draft the letters.

Councilman Smith asked which of the plans, which had been proposed, was from Mr. Behling. He asked for a copy of all the plans presented.

Legislator Adsit will check with Mr. Hagemann.

Fire Inspections

Councilman Simmons asked about fire inspections in the vacant buildings downtown.

Mr. Hiller will check with the Chief Gaumont.

Councilwoman Burns remarked that there are annual inspections of occupied building downtown. She also explained that the Downtown Development Board has a Buildings Committee, which is also taking a look at the vacant downtown buildings.

Web Site

Mr. Hiller asked for Council's input for the City's web site.

Flower Statue Task Force

MOTION WAS MADE BY COUNCILMAN CLOUGH TO ALLOW RANDE RICHARDSON TO ASSEMBLE A TASK FORCE FOR THE FLOWER STATUE PROJECT AND DIRECTING THAT AT LEAST ONE MEMBER REPRESENTING THE CITY BE ON THE COMMITTEE.

MOTION WAS SECONDED BY COUNCILWOMAN BURNS AND CARRIED WITH ALL VOTING IN FAVOR THEREOF.

Councilman Simmons suggested that a member from the Downtown Development Board be on the task force.

Councilwoman Burns suggested that the City Historian be on the task force.

Mr. Richardson stated that the City Historian is on it and he would welcome representation from the City and Downtown Development Board.

EXECUTIVE SESSION

MOTION WAS MADE BY COUNCILMAN CLOUGH TO MOVE INTO EXECUTIVE SESSION TO DISCUSS THREATENED AND PENDING LITIGATION AND COLLECTIVE BARGAINING NEGOTIATIONS

Council moved into Executive Session at 9:00 p.m.

Council reconvened at 10:00 p.m.

The following resolution was presented:

INTRODUCED BY COUNCILMAN PETER L. CLOUGH

WHEREAS certain premises owned by Juster Properties in the City of Watertown at 1125 Arsenal Street and also known as Parcel No. 9-16-121 on the Assessment Roll and Map of the City, were assessed upon the Assessment Roll of the City for the payment of taxes starting with tax year 1996:

1125 Arsenal Street - \$4,401,000.00

and

WHEREAS, a portion of those lands were sold to Furniture Executives No. 3, L.P. leaving the balance of the lands and structures assessed upon the Assessment Roll of the City for the payment of taxes starting with the year 1998:

1125 Arsenal Street - \$1,513,500.00

and,

WHEREAS Juster Properties has heretofore duly instituted in the Supreme Court proceedings to review the assessment and the determination of the Board of Review of the City for tax years 1996, 1997, 1998,2000 and 2001, and

WHEREAS the parties have agreed that the assessment shall be adjusted to \$4,300,000.00 for tax years 1996 and 1997, and

WHEREAS the parties have agreed that the assessment shall be adjusted to \$1,200,000.00 for tax year 1998 and \$1,300,000.00 for tax years 2000 and 2001, and

WHEREAS, in consideration of the City setting the assessment as set forth above the Petitioner agrees not to commence tax assessment review proceedings pursuant to Article 7 of the Real Property Tax law of the State of New York or under any other applicable provisions of law for tax years 2002,2003, and 2004, and

WHEREAS the City reserves the right to adjust the assessment to new additions or improvements upon the subject property if Petitioner makes additions to or improvements upon the subject property which warrant a change in assessment, and similarly, the Petitioner shall not be barred from challenging and commencing proceedings to review the assessment on the new additions or improvements in the event there are new additions or improvements on the subject premises not encompassed herein, and

WHEREAS the compromise and settlement of the aforesaid proceedings upon the above basis is deemed in the best interests of the Respondents;

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Watertown, New York that the City Attorneys of the City of Watertown be and are hereby authorized, empowered and directed to enter into a formal Stipulation of Settlement and Discontinuance of the aforesaid proceedings with the Counsel of Juster Properties on the following terms and conditions:

1. That the total assessment for the aforesaid premises owned by Juster Properties and known as 1125 Arsenal Street, Watertown, New York and designated as Tax Parcel No. 9-16-121 shall be adjusted to the amount of \$4,300,000.00 for tax years 1996 and 1997, and as so adjusted be finally fixed and determined and that the Assessment Roll be corrected as required.
2. That the total assessment for the aforesaid premises shall be adjusted to the amount of \$1,200,000.00 for tax year 1998, and \$1,300,000.00 for tax years 2000 and 2001, and as so adjusted be finally fixed and determined and that the Assessment Roll be corrected as required.
3. That the above adjustments are made in consideration of the tax jurisdictions' obligation to pay their respective pro rata share of the rebates or refunds of all real estate taxes paid based upon the above described reductions and Petitioner's agreement to waive all refunds or rebates related to tax year 1999 in respect to such property.
4. That the above adjustments are made in consideration of the Petitioner's agreement not to commence tax assessment review proceedings pursuant to Article 7 of the Real Property Tax Laws of the State of New York or under any other applicable provision of law for tax years 2002,2003 and 2004 so long as the assessment is so fixed.

5. That the City reserves the right to adjust the assessment on the subject property if Petitioner makes additions to, or improvements upon, the subject property which warrant a change in assessment. That in this instance, the Petitioner reserves the right to challenge the assessment on the subject property as relates to the additions or improvements and to otherwise apply for additional RPTL §485-b exemptions.
6. That an Order of the Supreme Court shall be made and entered settling the aforesaid proceedings to review said assessment without cost to either party as against the other and upon the terms and conditions set forth above, and

BE IT FURTHER RESOLVED that the City Assessor and all other municipal officers, agents, or employees be and they hereby are directed to do such acts and things as may be necessary to give full force and effect to the aforesaid settlement.

SECONDED BY COUNCILWOMAN ROXANNE M. BURNS AND CARRIED WITH ALL VOTING YEA

(Rules waived by motion of Councilman Clough, seconded by Councilman Simmons and carried with all voting in favor thereof.)

Strategic Planning Session

Council discussed scheduling the next strategic planning session. Staff was instructed to contact the facilitators to see what dates were available.

ADJOURNMENT

AT THE CALL OF THE CHAIR MEETING WAS DULY ADJOURNED AT 10:15 P.M. BY MOTION OF MAYOR BUTLER, SECONDED BY COUNCILMAN SIMMONS AND CARRIED WITH ALL VOTING IN FAVOR THEREOF.

Donna M. Dutton, City Clerk

SECONDED BY COUNCILWOMAN ROXANNE M. BURNS AND CARRIED WITH ALL VOTING YEA

(Rules waived by motion of Councilman Clough, seconded by Councilman Simmons and carried with all voting in favor thereof.)

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